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Of Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Civil No.

v.

DONN B. MERRICK and PAMELA JO
MERRICK, husband and wife,
individually and as Trustees of the
MERRICK LIVING TRUST; MERRICK
LIVING TRUST; and LANE COUNTY
ASSESSOR,

UNITED STATES' COMPLAINT TO
REDUCE TAX ASSESSMENTS TO
JUDGMENT, DETERMINE
BENEFICIAL OWNERSHIP OF
PROPERTY, AND FORECLOSE
FEDERAL TAX LIENS

Defendants.

Introduction

1. This is a civil action to (i) reduce to judgment certain outstanding federal income tax assessments against Donn B. Merrick and Pamela Jo Merrick,

husband and wife (the “Merricks”), totaling \$121,916.58 as of June 7, 2018, with statutory interest continuing to accrue until paid, (ii) determine that the Merricks are the beneficial owners of a single family home of approximately 1,830 square feet on approximately 3/10ths of an acre of land, known as and located at 2120 Rocky Lane, Eugene, Oregon 97401 (the “Property”), and that the legal owner of the Property, the Merrick Living Trust (the “Trust”)—of which they are the trustees—is their nominee; and (iii) to foreclose, through a judicial sale conducted by an Internal Revenue Service Property and Liquidation Specialist (“PALS”) or other authorized official, the federal tax liens on the Property.

Jurisdiction and Venue

2. Pursuant to 26 U.S.C. §§ 7401 and 7403, this action is filed at the direction of the Attorney General of the United States, with the authorization and at the request of the Secretary of the Treasury of the United States, acting through his delegate, the Associate Area Counsel of the Internal Revenue Service.
3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a).
4. Venue is proper in the District of Oregon pursuant to 28 U.S.C. §§ 1391(b) and 1396.

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Defendants

5. The Merricks are the taxpayers. They have resided on the Property since 1994. They are its beneficial owners.
6. The Trust is an entity the Merricks created to serve as their nominee. The Merricks are its trustees. The Trust holds legal title to the Property for the Merricks' benefit.
7. The Lane County Assessor has an interest in the Property under 26 U.S.C. § 7403(b) in the form of a lien for unpaid property taxes. The Assessor's office is located at 125 East 8th Avenue, Eugene, Oregon 97401.

The Property

General Description

8. The Property is more particularly described as:

Beginning at a point 1032.54 feet South and 1521.12 feet West of the Northeast corner of the Sarah E. Benson Donation Land Claim No. 42, Section 17, Township 17 South, Range 3 West, Willamette Meridian, Lane County, Oregon; run thence West 90.0 feet; thence South 150.0 feet; thence East 90.0 feet; thence North 150.0 feet to the point of beginning, in Lane County, Oregon.

9. The Lane County Tax Account Number for the Property is 1011517.
10. According to the Lane County web site, the most recent (2017) "Assessed Value" for the Property is \$300,896, and the most recent (2017) "Real Market Value" for the Property is \$404,252.

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Relevant Title History

11. The Merricks purchased the Property on or about September 30, 1994. They obtained title pursuant to a Statutory Warranty Deed recorded in Lane County on October 19, 1994, Recording No. 9474622.
12. The Property is not currently encumbered by any mortgage or deed of trust.
13. On April 22, 2009, the Internal Revenue Service recorded a Notice of Federal Tax Lien (“NFTL”) in Lane County, Recording No. 2009-020974. The NFTL named the Merricks as taxpayers and listed unpaid federal income tax liabilities for 2003 and 2005-2007.
14. On October 22, 2009, the Merricks recorded a Warranty Deed, dated August 28, 2009, in Lane County, Recording No. 2009-059645. The Warranty Deed transferred title to the Property from the Merricks individually to the Merricks as trustees of the Trust. No consideration was given for the transfer.
15. On May 24, 2011 the IRS recorded another NFTL in Lane County, Recording No. 2011-023941. It named the Merricks as taxpayers and listed unpaid federal income taxes for 2001 and 2004.
16. On January 30, 2017, the IRS recorded another NFTL in Lane County, Recording No. 2017-004555. It named the Merricks “D/B/A/ ESTATES BY PAM” and listed unpaid federal income taxes for 2009-2013.

17. Also on January 30, 2017, the IRS recorded another NFTL in Lane County, Recording No. 2017-004556. It named Donn B. Merrick as taxpayer and listed unpaid federal income taxes for 2008.

18. On September 11, 2017, the IRS recorded another NFTL in Lane County, Recording No. 2017-044821. It named as taxpayer the Trust, as nominee of the Merricks, and listed unpaid federal income taxes for 2001, 2006-2007, and 2009-2012.

19. On February 21, 2018, the IRS recorded another NFTL in Lane County, Recording No. 2018-008217. It named as taxpayer Pamela J. Merrick and listed unpaid federal income taxes for 2008.

20. According to the Lane County web site, as of July 6, 2018, property taxes were due with respect to the Property for 2016 and 2017 in the total amount of \$12,402.88.

Federal Tax Assessments and Liens

21. The Merricks owe federal income taxes, penalties, and interest for multiple tax years: 2001 and 2004-2012. The Merricks filed joint Form 1040 returns for those years but did not pay the amounts due in full.

22. The assessments at issue were made by a duly authorized delegate of the Secretary of the Treasury.

23. The Merricks failed and refused to pay the amounts due despite statutory notice and demand for payment.

24. As a result of the unpaid taxes, statutory interest and penalties have accrued, fees for collection have been incurred, and statutory interest continues to accrue.

25. As set forth in the following chart, the total balance due from the Merricks as of June 7, 2018 was \$121,916.58:

<i>Tax Year</i>	<i>Tax Assessed</i>	<i>Penalty Assessed</i>	<i>Interest Assessed</i>	<i>Interest Accrued</i>	<i>Fees</i>	<i>Payments and Credits</i>	<i>Totals as of 6/7/18</i>
<i>2001</i>	\$7,018.00	\$1,887.52	\$9,763.36	\$209.12	-0-	\$379.36	\$18,498.64
<i>2004</i>	\$4,758.00	\$2,300.88	\$5,041.52	-0-	\$10.00	-0-	\$2,497.27
<i>2005</i>	\$13,508.00	\$6,888.64	\$10,431.21	-0-	-0-	-0-	\$12,644.19
<i>2006</i>	\$14,047.00	\$3,967.77	\$9,888.64	\$318.55	-0-	\$42.69	\$28,179.27
<i>2007</i>	\$17,404.00	\$4,196.80	\$8,984.79	\$336.11	\$10.00	\$1,200.00	\$29,731.70
<i>2008</i>	\$5,957.00	\$2,544.57	\$2,451.66	\$249.74	\$90.00	\$600.00	\$10,692.97
<i>2009</i>	\$5,869.00	\$2,690.78	\$2,113.91	\$231.53	-0-	\$996.24	\$9,908.98
<i>2010</i>	\$3,469.00	\$742.25	\$954.58	\$53.35	-0-	\$500.00	\$4,719.18
<i>2011</i>	\$1,619.00	\$404.75	\$443.44	\$28.22	-0-	-0-	\$2,495.41
<i>2012</i>	\$2,130.00	-0-	\$390.16	\$28.81	-0-	-0-	\$2,548.97
							<u>\$121,916.58</u>

26. As a result of the unpaid liabilities described above, together with the Merricks' refusal or neglect to pay despite notice and demand, tax liens arose in favor of the United States upon all of their property and rights to

property, including the Property, as of and after the dates of the assessments.

27. To give notice of the statutory liens to third parties entitled to such notice, the IRS recorded the NFTLs in Lane County as described above.

**Count I: Reduce to Judgment Unpaid Federal
Income Tax Assessments Against the Merricks**

28. The United States incorporates by reference the allegations in paragraphs 1 through 26 above.

29. Despite proper notice and demand for payment of the tax liabilities described above, the Merricks neglected, failed, or refused to make full payment to the United States of the assessed amounts and the interest and penalties accrued thereon.

30. The Merricks are liable for the unpaid balances of the assessments described above, together with accrued but unassessed interest. As of June 7, 2018, the total due was \$121,916.58.

31. The United States is entitled to judgment against the Merricks for the total amount due as of the date of judgment, including statutory accruals, plus interest accruing after judgment to the date of payment.

**Count II: Determine that the Trust is the Merricks' Nominee with Respect
to the Property**

32. The United States incorporates by reference the allegations made in paragraphs 1 through 30 above.

33. The Merricks have resided on the Property continuously since purchasing it in 1994.

34. The Merricks held legal title to the Property from October 19, 1994 to October 19, 2009.

35. The Merricks deeded the Property to the Trust on October 19, 2009 for no consideration. The transfer occurred a few months after the IRS recorded its first NFTL and before the IRS recorded its subsequent NFTLs.

36. Despite the transfer of legal title, the Merricks have continued to exercise dominion and control over the Property.

37. The Merricks are the true beneficial owners of the Property.

38. The Trust is the Merricks' nominee.

Count III: Foreclose Federal Tax Liens Against the Property

39. Pursuant to 26 U.S.C. §§ 6321 and 6322, statutory liens for unpaid federal taxes arose in favor of the United States against all of the Merricks' property or rights to property, including their interest in the Property, as of the dates of assessment described above.

40. In accordance with 26 U.S.C. § 6323(f), Notices of Federal Tax Lien relating to the assessments described above were recorded in the Lane County land records, giving notice to third parties entitled to such notice.

41. The federal tax liens continue to attach to the Property, including all fixtures thereon.

42. Pursuant to 26 U.S.C. § 7403(b), all persons who may claim any interest in the Property have been made parties to this action.

43. Under 26 U.S.C. § 7403(c), the United States is entitled to a decree of sale of the Property in order to enforce its tax liens.

Prayer for Judgment

WHEREFORE, the United States requests the following relief:

- A. On Count I, judgment in favor of the United States and against the Merricks, jointly and severally, for their unpaid federal income tax liabilities for tax years 2001 and 2004-2012 in the total amount of \$121,916.58 as of June 7, 2018, plus interest accruing thereafter as provided by law until paid in full;
- B. On Count II, judgment that the Trust is the Merricks' nominee, and that the Merricks are the true beneficial owners of the Property; and
- C. On Count III, judgment that:
 - (i) The United States has valid and subsisting federal tax liens on all of the Merricks' property and rights to property, including their beneficial ownership interest in the Property; and
 - (ii) The federal tax liens on the Property shall be foreclosed, with the Property to be sold through an Order of Sale by an IRS PALS or other authorized official, the proceeds of sale to be distributed according to the Court's determination as to the validity and priority of all claims; and

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D. That the Court grant the United States its costs in bringing this action, and
any other and further relief as is just and proper.

DATED this 13th day of July, 2018.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General
U.S. Department of Justice, Tax Division

/s/ W. Carl Hankla
W. CARL HANKLA
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District of Oregon
Of Counsel

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
		LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

)
)
)
)
)
)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____ , a person of suitable age and discretion who resides there,
 on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Civil Action No. _____

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

)
)
)
)
)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____ , a person of suitable age and discretion who resides there,
 on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: